

*Don't know if these  
ever went out*

February 15, 1977

Mr. Harry M. Descoteau  
Assistant State Treasurer  
New Hampshire Retirement System  
State House Annex  
Concord, New Hampshire 03301

Dear Mr. Descoteau:

On April 7, 1976, you requested our opinion on the question whether a classified state employee may place free political stickers and signs relating to non-presidential races on his personal vehicle and park that vehicle on a public thoroughfare outside of his place of employment. We respond that he may place a free political sticker on his car and park it in this manner but may not do the same with a political sign.

RSA 70:2 (IV) prohibits a classified state employee from making any "gift, payment or contribution of money or thing of value, whether tangible or intangible ... to a candidate, a political committee, or political party or in behalf of a candidate, political party or measure, directly or indirectly, for the purpose of promoting the success or defeat of any candidate, political party or measure." RSA 70:1 (V) states that the "phrase 'thing of value' shall not include services of volunteers who receive no pay therefor."

On March 13, 1976, Rule VII, §7(B)(1) entitled "Prohibited Political Activities" was promulgated by the Personnel Commission under the authority of RSA 98:8 (III).

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That rule closely follows the language of RSA 70:2 (IV) and expressly states that it is not meant to prohibit the "placing [of] a free, political candidate's sticker on one's private automobile." The rule thus effectively excludes stickers placed on private automobiles from the definition of "thing of value" set forth in RSA 70:2 (IV).

Since public support and advocacy of a particular candidate, party or measure may, under certain circumstances, amount to the donation of something of value, to that cause application of the standard established by RSA 70:2 (IV) to such cases requires a balancing of the employee's interest in personal expression against the public's need for a non-partisan corps of state employees. Rather than operating as a bar to all personal expression of political views by classified state employees, RSA 70:2 (IV) simply attempts to prevent classified state employees from participating so deeply in the political process that they make valuable donations to a cause. In this light, the act of placing political stickers on one's automobile must be regarded as primarily an expression of one's personal opinion about a candidate and more a means of identifying oneself with the views or public image of a particular candidate than of persuading persons to support him. The permission granted by Rule VII, §7(B)(1) to a classified state employee to place a bumper or similar type of sticker on his private automobile is therefore consistent with the purposes of RSA 70:2 (IV). On the other hand, a large sign placed on the roof of a classified state employee's car is more in the nature of a political advertisement than a simple act of personal expression. In effect, the owner of an automobile equipped with such a sign is contributing the use of his or her car as an advertising tool and is thereby donating a "thing of value" to a candidate, party or measure within the meaning of RSA 70:2 (IV).

Although the line designating lawful activity under RSA 70:2 (IV) is difficult to draw, it must be more clearly defined if a classified state employee is to know the standards by which his conduct will be judged. Accordingly, we are recommending by copy of this opinion that the

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Personnel Commission consider formulating a further rule defining the dimensions of signs and methods of display on the private automobiles of classified state employees which will be consistent with the requirements of RSA 70:2 (IV).

Yours sincerely,

David H. Souter  
Attorney General

David W. Marshall  
Attorney

DWM/r

cc: Mr. Roy Y. Lang, Secretary  
Personnel Commission